

To: Harvey Fishbein, Esq.
Lauren Di Chiara, Esq.
Defense Attorneys for Aaron Etra
Assigned by Judge Valeri Caproni

Date: March 12, 2023

Fr: Marc Sklar
Friend and power of attorney for Aaron Etra

Copy to: Aaron Etra

Re: Response to Benthos counsel's March 10, 2023 memo on agreement to forensic audit protocols

Aaron Etra / Personal Computer Notebook & Smartphone "Forensic Audit"
Personal Privacy Rights Protection Protocols

Dear Lauren & Harvey,

Lauren, following our discussion of the memorandum from Benthos counsel on the, to be agreed to forensic audit, I had opportunity to speak to Aaron by phone and he will appreciate having clarification and agreement on a few points before proceeding.

To be clear, it is Aaron's intention to not get distracted by any protracted back and forth over particular issues on the methodology of this forensic audit.

It is Aaron's desire to get this in process and completed as soon as possible.

Please address the following concerns.

1. Acknowledgement that "the forensic expert" NCIT IT is a neutral third party and will be bound by a confidentiality agreement and will only disclose information deemed relevant to the matter being litigated.

Understood from 3-10-23 Benthos counsel memo that there is agreement that "the forensic expert", NCIT IT is a neutral third party bound by confidentiality.

2. Recognizing the sensitive balance between a wholesale review of all data in the devices and more narrowly uncovering the relevant financial and litigation related data in these devices and cloud stored data; there should be some reasonable search criteria usable by the forensic expert with guidance of Benthos counsel for understanding data relevant to and appropriate to the interests of Benthos. Aaron would like to understand and agree to some reasonable criteria to be used.

The forensic expert to advise suitable (related to customary industry precedents) search criteria that might be acceptable to both parties. Agreed that in deference to 3-10-23 Benthos counsel's memo comment to the effect that there should not be an undue burden to cull out personal or non-privileged like photographs or e-mails, that is agreed.

3. The forensic audit protocol from Benthos under item 1. (filed 1-13-23) states that ...“to the extent information contained in any of Etra's accounts or Media is not stored on the Devices, Etra shall at the same time provide to the Forensic Expert and to Benthos (and the court as set forth above) the information necessary to access and image his accounts and Media.” Here there is objection only to this information being provided in wholesale to Benthos before the opportunity of a determination of whether certain information is determined to be privileged or relevant to the matter.

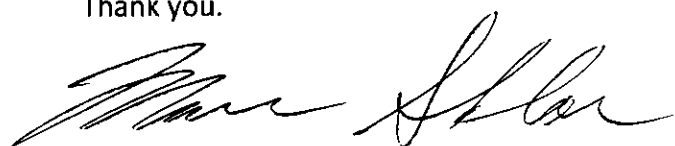
Benthos to agree that information necessary (like passwords and account access details) to access and image Aaron's accounts be provided only to the forensic expert and to the court, if they so request.

4. Regarding the production of a “report” (item # 6 of the 1-13-23 protocol) by the forensic expert stating the report “... shall be filed by Benthos and delivered to Etra and his counsel” this is related to the right of Etra to assert privilege over certain files or information. Aaron is requesting clarification whereby from the language it appears that Benthos will be privy to the report before Etra has the opportunity to assert privilege. Please advise.

Regarding “The Report” to be created by the forensic expert, there must be a mechanism for removal of privileged information before it is viewed by Benthos rather than all data reviewed by Benthos before determination of which information is privileged. No objection to having Aaron receive the forensic audit report, flag what he deems privileged and allow the court to determine what is privileged before report, less court approved privileged information, is delivered to Benthos.

Lauren, as Aaron's counsel any of your comments or suggestions are welcome by Aaron to facilitate this matter.

Thank you.

 POA for Aaron Etra
3/13/23